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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

PENN ENGINEERING AND
MANUFACTURING CORP.,

Plaintiff,

v.

DONGGUAN FENGGANG PINCONN
HARDWARE FACTORY,

Defendant.

CASE NO. 2:17-cv-02679-RCJ-PAL

**[PROPOSED] PERMANENT
INJUNCTION ORDER**

This Court, having duly considered Penn Engineering and Manufacturing Corp.'s ("PEM") Motion for Default Judgment and Permanent Injunction against Defendant Dongguan Fenggang Pinconn Hardware Factory ("Pinconn") (ECF No. 12), hereby enters an order of permanent injunction against Pinconn pursuant to Rule 55(b) of the Federal Rules of Civil Procedure.

Background

PEM manufactures and sells fasteners, fastener components, and fastener installation equipment using the "PEM Trademarks" identified in Schedule A to this Order, and PEM is the owner of valid rights in and to the PEM Trademarks for use in connection with all goods and services recited in Schedule A. (See ECF No. 1 at Exs. 2 and 3).

1 In addition, PEM also possesses substantial United States patent rights including the two
2 design patents at issue in this case (the “PEM Patents”) (*see* ECF No. 1 at Ex. 4):

- 3 • U. S. D768,468 (the “468 Patent”) Metal Pin Fastener; and
- 4 • U. S. D656,392 (the “392 Patent”) Panel Fastener.

5 **1. Pinconn’s Infringing Conduct**

6 **a. Pinconn’s Prior Infringement**

7 In November 2015, PEM initiated a trademark and patent infringement action in the
8 Eastern District of Pennsylvania against three Chinese entities: Pemco Hardware, Inc., Dongguan
9 Fenggang Pemco Hardware Factory, and Shenzhen Pemco Fastening Systems Co., Ltd. (the
10 “Pennsylvania Action”) *see Penn Eng’g & Mfg. Corp. v. Pemco Hardware, Inc.*, No. 2:15-cv-
11 6277-GJP (E.D. Pa. filed Nov. 23, 2015). On March 9, 2016, the Court in the Pennsylvania
12 Action granted a preliminary injunction against Defendants. (ECF No. 1, Ex. 1).

13 **b. Pinconn’s Infringement in this Case**

14 On or around October 13, 2017, PEM discovered the Defendants had re-surfaced and
15 resumed their infringing activities under a new tradename and new trademarks. Then, on
16 October 18, 2017, Pinconn participated as an exhibiting vendor at the Las Vegas International
17 Fasteners Expo. Pinconn was advertising, displaying, offering for sale, and selling infringing
18 products including those identified in Schedule B to this Order (the “Infringing Products”).

19 On October 18, 2017, PEM initiated the instant action by filing a Complaint for (1)
20 Trademark Infringement; (2) False Designation of Origin/Unfair Competition; (3) Common Law
21 Trademark Infringement & Unfair Competition; and (4) Design Patent Infringement. (ECF No.
22 1). Default was entered against Pinconn on November 14, 2017 (ECF No. 10). On April 6,
23 2018, PEM Filed a Motion for Default Judgment and Permanent Injunction. (ECF No. 12). On
24 June 15, 2018, this Court entered an Order granting PEM’s Motion for Default Judgment and
25 Permanent Injunction. (ECF No. 14).

26 **Trademark Infringement & False Designation of Origin/Unfair Competition**

27 **IT IS HEREBY ORDERED** that Defendant, its respective officers, agents, servants,
28 employees, attorneys, and any of their successors and assigns, and all persons, firms and

1 corporations, including subsidiaries of related companies, acting in concert with Defendant are
2 permanently enjoined from:

- 3 1. Using the PEM Trademarks in any manner in connection with the Protected
4 Goods and Services and/or related goods and services;
- 5 2. Using any mark or tradename that is a colorable imitation of or confusingly
6 similar to the PEM Trademarks in connection with the Protected Goods and
7 Services, and/or related goods and services;
- 8 3. Publishing, circulating, distributing, selling, merchandising, or using in any
9 manner (including digital form) any labels, signs, prints, boxes, packages,
10 wrappers, receptacles, advertisements, posters, brochures, handbills, catalogs,
11 publicity releases, magazines, stationary, newspapers, booklets, books, pamphlets,
12 photographs, films, audio recordings, video recordings, T-shirts, and any other
13 items in the possession and/or control of Defendants containing the PEM
14 Trademarks, or any other mark or tradename that is a colorable imitation of the
15 PEM Trademarks; and
- 16 4. Using the PEM Trademarks as a metatag, hyperlink, portal keyword, searchable
17 text, or other item associated with any Website including: (1) www.pinconn.com;
18 (2) www.pemcohardware.com; (3) www.pemcomfg.com; (4) www.pemku.com;
19 (5) www.pemcofastening.en.china.cn, or in any manner in connection with any of
20 Defendant's websites.

21 **Patent Infringement**

22 **AND IT IS HEREBY FURTHER ORDERED** that Defendant and its officers, agents,
23 servants, employees and attorneys, and all other persons acting in active concert or participation
24 with any of them, are hereby permanently enjoined from infringing PEM's United States Patent
25 Nos. U.S.D768,468 Metal Pin Fastener and U.S. D656,392 Panel Fastener (the "PEM Patents")
26 including, but not limited to, making, using, selling, offering to sell, and importing into the
27 United States products covered by the PEM Patents and colorable imitations thereof pursuant to
28 15 U.S.C. § 283 and Rule 65(d) of the Federal Rules of Civil Procedure.

1 **IT IS FURTHER ORDERED** that Defendant destroy any products which infringe upon
2 the PEM Patents.

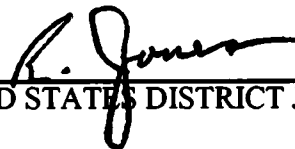
3 **IT IS FURTHER ORDERED** that Defendant destroy or surrender all tooling.

4 **IT IS FURTHER ORDERED** that the United States Customs and Border Protection
5 seize all of Defendant's products which infringe on the PEM Patents which are coming into the
6 United States.

7 **IT IS FURTHER ORDERED** that Plaintiff PEM be awarded judgment against
8 Defendant Pinconnon for PEM's Complaint for Statutory damages in the amount of fourteen
9 million dollars (\$14,000,000).

10 **IT IS FURTHER ORDERED** that this Court retains jurisdiction over the parties to the
11 extent necessary to enforce the terms of this Order and the injunctive relief provided herein.

12 SIGNED AND ENTERED this 24 day of July 2018.

13
14 
15 _____
16 UNITED STATES DISTRICT JUDGE

17
18 Respectfully submitted by:

19 DICKINSON WRIGHT PLLC

20
21 /s/ Steven A. Caloiaro

22 John L. Krieger

23 Nevada Bar No. 6023

24 Steven A. Caloiaro

25 Nevada Bar No. 12344

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27 Las Vegas, Nevada 89113-2210


28 Tel: (702) 550-4400

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Attorneys for Plaintiff

Schedule A**PEM Trademarks**




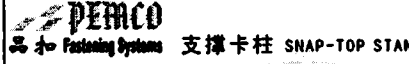
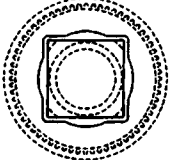

<u>Mark</u>	<u>Registration Number</u>	<u>Registration Date</u>	<u>Incontestability Date</u>	<u>Goods & Services</u>
PEM	732,947	6/19/1962	10/25/1984	Drill bushings and self-clinching nuts, fasteners, studs and stand-offs
PEM	1,177,822	11/17/1981	8/3/1987	Broaching-type captive fasteners-namely, broaching-type captive fasteners with internal threads, broaching-type captive standoffs with and without internal threads, broaching-type captive solder terminals, broaching-type captive studs, broaching-type captive panel fasteners and metallic inserts.
PEM	1,403,759	8/5/1986	8/12/1991	Metal fasteners
PEM	2,758,505	9/2/2003	9/2/2009	Panel fasteners, namely self-clinching, snap-in floating and hybrid panel fasteners
	889,244	4/14/1970	4/14/2010	Self-clinching fasteners, self-locating weld fasteners, and self-clinching drill bushings
	1,043,967	7/20/1976	11/9/1981	Presses for installing fasteners or the like and also for parts of said presses
	1,092,108	7/25/1983	5/30/2015	Panel fastener assemblies and spring loaded plunger assemblies
	1,113,034	2/13/1979	4/23/1984	Electrical terminals and electrical grounding stand-offs

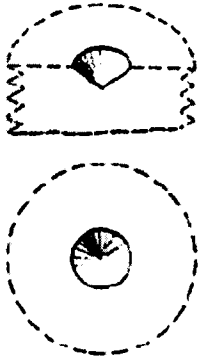
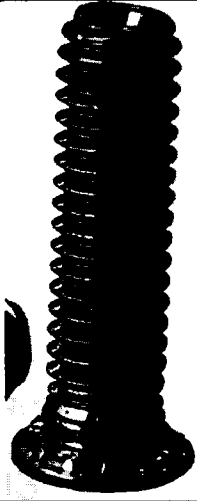
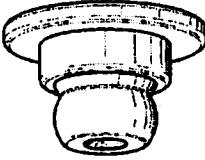



	4,331,371	5/7/2013	n/a	Fasteners made of metal, namely, nuts, weld nuts, studs, pins, standoffs, rivets and inserts, cable-tie mounts and hooks for sheet metal; self-clinching panel fasteners made of metal or mostly of metal; panel fasteners and panel fastener assemblies made of metal or mostly of metal; sheet-metal fasteners made of metal; fasteners made of metal or mostly of metal for mounting into printed circuit boards; micro fasteners made of metal for use in the consumer electronics industry
PEMEX	937,397	7/11/1972	7/11/2012	Fasteners, i. e. , nuts
PEMHEX	781,236	12/8/1964	12/8/2004	Fasteners
PEMSERT	883,650	1/6/1970	1/6/2010	Inserts
PEMSERTER	1,365,248	10/15/1985	6/3/1991	Power-operated presses for installing fastener
PEMSERTER MICRO-MATE	1,433,571	3/24/1987	7/2/1992	Non-powered hand presses for punching holes and installing fasteners for use in sheet metal
PEMSERTER and triangle composite	3,567,528	1/27/2009	2/9/2015	Power-operated presses for installing fasteners
PEM SP	3,270,807	7/31/2007	8/5/2013	Metal fasteners
PEM300	1,444,862	6/30/1987	10/20/1992	Sheet Metal Fasteners
AUTOPEM	4,296,186	2/26/2013	n/a	Metal fasteners, namely, nuts, bolts, screws, rivets, standoffs, clinching fasteners; metal threaded fasteners
MICROPEM	4,250,883	11/27/2012	n/a	Metal fasteners, namely, nuts, bolts, screws, rivets, standoffs, clinching fasteners; metal threaded fasteners
AEROPEM	4,298,838	3/5/2013	n/a	Metal fasteners, namely, nuts, bolts, screws, rivets, standoffs, clinching fasteners; metal threaded fasteners

1	The "Blue Locking Element Mark"	1,449,260	7/28/1987	10/30/1992	Self-clinching locking nuts
2					
3	The "Shoulder Flare Mark"	4,037,181	10/11/2011	n/a	Metal threaded fasteners, namely, panel fasteners with heads of metal and panel fasteners with heads of metal and plastic
4					
5	The "Pedestal Mark"	4,293,597	2/19/2013	n/a	Metal fasteners, namely, clinch fastener for mounting two sheets or panels in perpendicular orientation
6					
7	SNAPTOP	1,418,142	11/25/1986	4/2/1992	Metal fasteners used to separate and hold printed circuit boards
8					
9	SPOTFAST	3,341,727	11/20/2007	9/30/2013	Metal fasteners, namely, a clinch- attached stud for joining two metal sheets
10					
11	REELFAST	3,002,446	9/27/2005	11/8/2011	Metal fasteners supplied on tape reels for surface mounting to circuit boards
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Schedule B**Defendant's Infringing Products**

PEM's Registered Marks	Image of Defendant's Infringing Usage	Details of Infringing Usage
PEM 732,947 1,177,822 PEM Family of Marks 1,403,759 2,758,505 781,236 883,650 889,244 1,043,967 1,092,108 1,113,034 4,331,371 937,397 1,365,248 1,433,571 1,444,862 3,270,807 3,567,528 4,296,186 4,250,883 4,298,838 PENN ENGINEERING 928,124	PEMCO PEMCO HARDWARE PEMCO FASTENING SYSTEMS PEMKU SHENZHEN PEMCO FASTENING SYSTEM CO, LTD. DONGGUAN FENGANGPEMCO HARDWARE FACTORY www.pemcomfg.com www.pemku.com PENNENGINEERING PEM www.pemnet.com PINCONN DONGGUAN FENGANG PINCONN HARDWARE FACTORY www.pinconn.com	Use as a header and a watermark on numerous web pages –(ECF No. 1, Ex. 5). Use on “Company News” of website –(<i>Id.</i> at Ex. 6). Use as a header on numerous web pages (<i>Id.</i> at Ex. 5). Use on home page with link to “Pemku Home” – (<i>Id.</i> at Ex. 6). Use as a header and watermark on numerous web pages – (<i>Id.</i> at Ex. 5). Use as the owner of ISO certification shown on website – (<i>Id.</i> at Ex. 2). Use as a watermark on numerous web pages – (<i>Id.</i> at Ex. 5). Use as a watermark on numerous web pages – (<i>Id.</i> at Ex. 5). Use as footer on multiple web pages (<i>Id.</i> at Ex. 7). Use in multiple web pages (<i>Id.</i> at Ex. s 7 and 8). Use as footer on multiple web pages (<i>Id.</i> at Ex. 7). Use as a header and a watermark on numerous web pages - (<i>Id.</i> at Ex. 5). Use as a footer, header and a watermark on numerous web pages - (<i>Id.</i> at Ex. 5). Use as a domain name and on multiple web pages – (<i>Id.</i> at Ex. 6).

<p>U. S. 4,037,181 Shoulder Flare product configuration</p> 		<p>(Id. at Ex. 9). http://www.pinconn.com/Category/B03/</p> <p>1) Assembly Parts/Panel Fastener Assembly/Flare-in with Flange – www.pinconn.com/category/B0301/</p> <p>2) Assembly Parts/Panel Fastener Assembly/Panel Fastener Assembly http://www.pinconn.com/Product/List/B0316/ (also covered by US Patent D656,392)</p> <p>3) Assembly Parts/Panel Fastener Assembly/Self-Clinching with Plastic Head http://www.pinconn.com/Product/List/B0332/</p>
<p>The “Pedestal Mark”</p>		<p>(Id. at Ex. 10). http://www.pinconn.com/Category/A01/</p> <p>Turning Parts/Nuts/Threaded Right Angle Nuts http://www.pinconn.com/Product/List/A0121/</p>
<p>Reg. No. 1,418,142 SNAPTOP</p>		<p>(Id. at Ex. 11). http://www.pinconn.com/Category/A03/</p>
<p>Reg. No. 3,404,061 Square in Square product configuration</p> 		<p>(Id. at Ex. 12). http://www.pinconn.com/Category/A01/</p>
<p>Reg. No. 1,089,546 Dimpled Recess product configuration</p>		<p>(Id. at Ex. 13). http://www.pinconn.com/Category/D/</p>

		
Penn Engineering's U. S. Patent	Exemplary Photograph of Patented Product	Pinconn's Infringing Product
<p>Title: Metal Pin Fastener D768,468</p>		<p>Ex. 15</p>  <p>Turning Parts/Pins and Others http://www.pinconn.com/Category/A/</p>
<p>Title: Panel Fastener U. S. D656,392</p>		<p>Ex. 17</p>  <p>http://www.pinconn.com/Category/B03/Assembly parts/Panel Fastener Assembly/Flare-in with Flange http://www.pinconn.com/Product/List/B0316/</p>

Schedule C

Search Engines

1. 20SEARCH
2. ACCLAIM SEARCH
3. ALIWEB
4. ALL THE WEB
5. ALTAVISTA
6. AMNESI
7. AOL
8. ASK
9. DOGPILE
10. EBAY
11. EXCITE
12. GIGABLAST
13. GOOGLE
14. GO
15. HOTBOT
16. INFO HIWAY
17. IWON
18. LINK CENTRE
19. LINKS2GO
20. LYCOS
21. MAMMA
22. MSN
23. NETSCAPE
24. SCRUB THE WEB
25. SEARCH.COM
26. SNAP
27. WEBCRAWLER
28. WHAT-U-SEEK
29. YAHOO
30. Any other search engine known by Defendants